

TOWN OF HERNDON, VIRGINIA

ORDINANCE

JANUARY 29, 2013

Ordinance- Amending the Zoning Ordinance to include and define zoning regulations for a new downtown zoning planned district, Planned Development-Traditional Downtown, and to adopt a pattern book and associated regulations to define and carry out this new zoning district; ZOTA #12-01.

In adopting this ordinance, the Town Council has considered the factors in §15.2-2284, Code of Virginia.

BE IT ORDAINED, by the Council of the Town of Herndon that:

1. Section 78-300.1, Establishment of zoning districts, Zoning Ordinance (2007), Herndon Town Code (2000), as amended, is amended and re-ordained as follows:

Sec. 78-300.1. Establishment of zoning districts.

The zoning districts established in this chapter are shown in Table 78-300.1: Zoning Districts:

TABLE 78-300.1: ZONING DISTRICTS

<i>Abbreviation</i>	<i>District Name</i>
<i>Residential Districts:</i>	
R-15 District	Residential Single-Family - 15 District [includes former RE-0.5 and R-15]
R-10 District	Residential Single-Family - 10 District
RTC District	Residential Townhouse Cluster District [includes former RTC-5 and RTC-10]
RM	Residential Multi-Family [includes former RM-1 and RM-2]
<i>Business Districts:</i>	
CC District	Central Commercial District
CS District	Commercial Services District [includes former C-2 and former C-3]
CO District	Commercial Office District
O & LI District	Office and Light Industrial District (includes former I-M, I-O, I-P, and I-G Districts)

<i>Planned Development Districts:</i>	
PD-R	Planned Development - Residential [includes former PDH, RPC]
PD-B	Planned Development - Business [includes former PD-SC, PD-IP]
PD-W	Planned Development – Worldgate
PD-D	Planned Development - Downtown [former PDMU]
PD-TD	Planned Development – Traditional Downtown
<i>Overlay Districts:</i>	
FPO	Floodplain Overlay District
HPO	Heritage Preservation Overlay District
CBPAOD	Chesapeake Bay Preservation Area Overlay District

2. Section 78-302.3, Additional provisions for business zoning districts, Zoning Ordinance (2007), Herndon Town Code (2000), as amended, is amended and re-ordained as follows:

Sec. 78-302.3. Additional provisions for business zoning districts.

(c) *Downtown*. Requirements in Section 78-511, Downtown, shall apply in sectors 1, 2, 3, and a small part of sector 6 consisting of five townhouses on center Street comprising part of Fortnightly Square (the Downtown) of the Herndon Downtown Overlay (Map C Downtown Sectors Map and Downtown Master Plan, adopted February 22, 2011) as described in the “Herndon 2030 Comprehensive Plan” (August 12, 2008), as may be amended, for any development in any such zoning district. Where there is conflict between section 78-511 and other provisions of this chapter, the provisions of section 78-511 shall prevail.

3. Section 78-303.1, General provisions, Zoning Ordinance (2007), Herndon Town Code (2000), as amended, is amended and re-ordained as follows:

Sec. 78-303.1. General provisions.

(f) *Statements of intent for planned development districts.*

- (5) PD-TD, planned development – traditional downtown district (form based on Downtown Master Plan). The intent of the PD-TD district is to encourage harmonious and creative new development, adaptive use and revitalization using a traditional downtown form. Development is to be integrated with public streetscapes, spaces and facilities based on the relationship of the form including the height and massing of proposed development to the forms in the illustrated Downtown Master Plan. Comprehensive Plan Amendment #10-01, Downtown Master Plan, adopted February 22, 2011, as amended incorporated by reference shall apply as a general guide to the review of any such development. This area for which this zone may be used corresponds to the Downtown as described in Section 78-302.3(c).

This mixed district is flexible as to the type of land use on a parcel and the exact physical layout of a development; however, proposals must follow the general form of the Downtown Master Plan and the guidelines of the Downtown Pattern Book dated January 29, 2013 by Urban Design Associates, as amended, incorporated by reference. The zoning administrator may make minor and incidental changes or corrections conforming the Downtown Pattern Book to insure full consistency of the Downtown Pattern Book with this chapter. Page 11 of the Downtown Pattern Book is hereby changed to show structures number 8 (now or formerly Ashwell LLC) and 47 (now or formerly Robert's Carpet) in the C-3 preservation priority category. Other objectives of the PD-TD district are to facilitate mixed use developments and joint development efforts by providing flexibility in determining floor area ratios, height, parking, setbacks and other traditional zoning requirements; to encourage adaptive use of historical and architecturally significant buildings and structures as designated in the historic analysis summary of the Downtown Pattern Book; and to promote a distinctive urban design for the downtown area.

Decisions on PD-TD zoning map amendments shall involve consideration of whether the proposal is fully consistent with the Downtown Master Plan and Downtown Pattern Book and the extent to which provisions are made for adequate public facilities to include enhanced streetscapes, crosswalks, plazas, streets, parking and placement of overhead utilities under the ground.

4. Section 78-303.2, Additional development standards for planned development districts, Zoning Ordinance (2007), Herndon Town Code (2000), as amended, is amended and re-ordained as follows:

Sec. 78-303.2. Additional development standards for planned development districts.

- (c) *PD-D, planned development – downtown.*

- (11) For the area that comprises the downtown as described in section 78-302.3(c), this zoning district is only available for zoning map amendment applications received on or before January 8, 2013.

(e) *PD-TD, planned development traditional downtown.*

- (1) *Minimum area.* There is no minimum area standard for a PD-TD district designation.
- (2) *Location.* A PD-TD district may only be established by rezoning of lands in the Downtown, as described in Section 78-302.3(c).
- (3) *Uses.* The list of allowed uses is found in Section 78-400: Table of Principal Permitted and Allowed Uses.
- (4) *Density.* The floor area ratio of development is not prescribed, although the form of development will be as generally depicted on the Downtown Master Plan, which includes commercial structures up to three stories in height and residential structures up to four stories in height, with buildings generally placed at or near the edge of the streetscape and parking located in surface lots or in parking structures. Density that may be achieved will depend on the parking solution for a given lot, the amount of public street frontage, the public streetscape to be provided, and other physical factors.
- (5) *Lot area.* The lot area shall be such that development must meet standards in Article V, Development Standards, and all other applicable standards in this chapter.
- (6) *Yards.* Where a PD-TD District abuts land in a single family detached zoning district, the yard immediately abutting the R-10 property shall be as follows: minimum 20 feet if it is a rear yard, minimum 10 feet if it is a side yard. All other yards of the PD-TD parcel shall be as governed by the Downtown Pattern Book.
- (7) *Setbacks.* Limited setbacks to provide for streetscape within the public right of way, on private property, or within a combination of both shall be provided as described in Section 78-511. Downtown.
- (8) *Height.*
 - a. The height of a structure shall generally follow the form of the Downtown Master Plan element of the 2030 Comprehensive Plan, as amended, incorporated by reference, and shall not exceed 50 feet from the finished grade except for architectural features such as parapet walls, elevator structures, heating, ventilation and air conditioning equipment and associated screening. These latter, excepted structures shall not exceed 64 feet in height

from the finished grade. Further, these excepted structures shall not exceed 14 feet in additional height from the top of the highest story of the building at the main roof deck level or at the point on a sloped roof that is at the top of the highest floor of the building. No portion of a gable end peak, parapet wall or other structure shall exceed 64 feet from finished grade. Along a sloped street the finished grade shall be the average grade along the street frontage. Finished grade shall be determined per the definition of grade in Article VII, Definitions of this chapter. These features are further described in Section 78-402.7

- b. In accord with Section 78-511, Downtown, building facades shall not be less than 20 feet in height as measured from the finished grade of the abutting public sidewalk to the top of the parapet on flat-roofed buildings or to the eave of pitched roof buildings. Single-family detached structures including accessory uses in the Downtown Master Plan area are excepted from this requirement.

(9) *Site and building design.*

- a. Sites shall meet the standards of Section 78-511, downtown.
- b. Buildings and open space in the PD-TD district shall be arranged to serve the needs of coordinated downtown development.
- c. Commercial uses and structures shall be oriented toward the street. Service areas such as loading areas, refuse containers, and utility structures shall be screened to mitigate the adverse effects of noise, odor, and unsightliness from adjacent residential zoning districts.
- d. Solid waste receptacles shall be provided in accordance with the provisions of the zoning ordinance, Herndon Town Code section 78-516.
- e. Site and building design shall comply with guidelines in the Herndon Downtown Pattern Book, including Section B Regulatory Plans, incorporated by reference.
- f. Site and building design shall comply with the redevelopment criteria and other applicable guidelines as stated in the Herndon 2030 Comprehensive Plan (adopted August 12, 2008), as amended, incorporated by reference. Site and building shall comply generally with the Lot and Building Guidelines of the Herndon Downtown Pattern Book, incorporated by reference.
- g. Downtown Pattern Book dated January 29, 2013 by Urban Design Associates, as amended, incorporated by reference, as may be amended by zoning ordinance is adopted and incorporated by reference into this chapter. The zoning administrator may make minor and incidental changes or corrections conforming the Downtown Pattern Book to insure full consistency of the Downtown Pattern Book with this chapter.

- (10) *Open space.* Open space shall be provided generally as depicted on the Downtown Master Plan element of the 2030 Comprehensive Plan, as amended, with flexibility allowed for physical configuration to vary if proposed plans meet or exceed what is illustrated in the Downtown Master Plan in terms of open space areas. On-site or off-site, open space may include the provision of unique features such as, but not limited to, terraces, sculpture, reflecting pools or fountains. Any off-site open space provided in general accord with the Downtown Master Plan shall be provided within the geographic limits of the Downtown Master Plan area as adopted February 22, 2011 or as may be amended.

5. Section 78-400, Table of Principal Permitted and Allowed Uses, Zoning Ordinance (2007), Herndon Town Code (2000), as amended, is amended and re-ordained as follows:

Sec. 78-400. Table of Principal Permitted and Allowed Uses.

Table 78-400, Table of Principal Permitted and Allowed Uses, sets forth the uses permitted within the general use zoning districts.

(b) *Table of principal permitted and allowed uses.*

Table of Principal Permitted and Allowed Uses												
(See Also Table of Permitted and Allowed Accessory Uses and Table of Allowed Temporary Uses and Structures)												
Notes: 1. P = use permitted in the zoning district 2. SE = use permitted only by special exception (see also section 78-202.3 3. A = uses permitted in planned development district when approved as part of a zoning map amendment 4. Any principal use allowed or permitted by right in this table is permitted by special exception in the floodplain overlay district, in accordance with section 78-304.2(d)(1)												
		<i>Residential</i>				<i>Business</i>				<i>Planned Development</i>		
<i>Use Category</i>	<i>Use Type</i>	<i>R-15</i>	<i>R-10</i>	<i>RT C</i>	<i>RM</i>	<i>CC D</i>	<i>CS</i>	<i>CO</i>	<i>O&LI</i>	<i>PD-R</i>	<i>PD-B</i>	<i>PD-TD PD-D</i>
Residential	Single-family detached dwelling	P	P							A		A
	Duplex dwelling			P						A		A
	Townhouse dwelling			P	P					A		A
	Townhouse rental residential development			P	P					A		
	Quadruplex dwelling				P					A		A
	Multi-family dwelling (including residential rental townhouses)				P					A		A
	Housing for the elderly				P	P				A		A
	Assisted living for the elderly and persons with disabilities				P					A		A
	Group home	P	P	P	P					A		A
Education	Childcare center, daycare center or preschool	SE	SE			SE		SE	SE	A	A	A
	Post secondary education and career schools							SE	SE		A	A
	School, public or private (K-12)	SE	SE					SE		A	A	A
Government Facilities	Government buildings, facilities and uses not otherwise categorized	SE	SE	SE	SE	SE	SE	SE	SE	A	A	A

Table of Principal Permitted and Allowed Uses

(See Also Table of Permitted and Allowed Accessory Uses and Table of Allowed Temporary Uses and Structures)

Notes:

1. P = use permitted in the zoning district
 2. SE = use permitted only by special exception (see also section 78-202.3
 3. A = uses permitted in planned development district when approved as part of a zoning map amendment

4. Any principal use allowed or permitted by right in this table is permitted by special exception in the floodplain overlay district, in accordance with section 78-304.2(d)(1)

		<i>Residential</i>				<i>Business</i>				<i>Planned Development</i>		
<i>Use Category</i>	<i>Use Type</i>	<i>R-15</i>	<i>R-10</i>	<i>RT C</i>	<i>RM</i>	<i>CC D</i>	<i>CS</i>	<i>CO</i>	<i>O& LI</i>	<i>PD-R</i>	<i>PD-B</i>	<i>PD-TD PD-D</i>
Institutional and Community Service Uses	Cemetery	SE	SE									
	Community centers	SE	SE	SE	SE	SE		SE		A	A	A
	Convalescent home							SE			A	
	Hospital						SE	SE	SE		A	
	Library	SE	SE			P	P			A	A	A
	Museum, fine arts center					P		SE	SE		A	A
	Religious institution, with a capacity of 300 or fewer persons gathered for religious observance in, with or without any accessory schools, daycare centers, or recreational facilities	SE	SE					SE	SE	A	A	
	Religious institution, with a capacity of more than 300 persons gathered for religious observance, with or without accessory schools, daycare centers, or recreational facilities	SE	SE							A	A	
	Senior center	SE	SE			P				A	A	A

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(See Also Table of Permitted and Allowed Accessory Uses and Table of Allowed Temporary Uses and Structures)

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		<i>Residential</i>				<i>Business</i>				<i>Planned Development</i>		
<i>Use Category</i>	<i>Use Type</i>	<i>R-15</i>	<i>R-10</i>	<i>RT C</i>	<i>RM</i>	<i>CC D</i>	<i>CS</i>	<i>C O</i>	<i>O& LI</i>	<i>PD-R</i>	<i>PD-B</i>	<i>PD-TD PD-D</i>
Eating Establishments	Restaurant					P	P	SE	SE		A	A
	Drive-In Restaurant [not drive-through window service]*						SE					
Offices	All office uses, excluding any medical or health related services (see "health care facility")					P	P	P	P	A	A	A
Indoor Entertainment	Commercial recreation/entertainment, indoor					SE	P		SE		A	A
Outdoor Entertainment	Commercial recreation/entertainment, outdoor								SE		A	
	Private swimming pools and Tennis Courts	SE	SE									

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(See Also Table of Permitted and Allowed Accessory Uses and Table of Allowed Temporary Uses and Structures)

Notes:

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		<i>Residential</i>				<i>Business</i>				<i>Planned Development</i>		
<i>Use Category</i>	<i>Use Type</i>	<i>R-15</i>	<i>R-10</i>	<i>RT C</i>	<i>RM</i>	<i>CC D</i>	<i>CS</i>	<i>CO</i>	<i>O&LI</i>	<i>PD-R</i>	<i>PD-B</i>	<i>PD-TD PD-D</i>
Personal Services and Retail Sales	Animal hospital, kennel, pet daycare, animal shelter, and veterinary clinic						P	SE	SE	A	A	
	Artist's studio or gallery					P	P	P	P	A	A	A
	Dry-cleaning/laundry drop-off and pick-up without on-site cleaning, laundromats					SE	P	SE	P	A	A	A
	Durable goods sales						P		SE		A	
	Financial institution					P	P	P	P		A	A
	Funeral home					P						
	Health care facility					P	P	P	P	A	A	A

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(See Also Table of Permitted and Allowed Accessory Uses and Table of Allowed Temporary Uses and Structures)

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4. Any principal use allowed or permitted by right in this table is permitted by special exception in the floodplain overlay district, in accordance with section 78-304.2(d)(1)

		<i>Residential</i>				<i>Business</i>				<i>Planned Development</i>		
<i>Use Category</i>	<i>Use Type</i>	<i>R-15</i>	<i>R-10</i>	<i>RT-C</i>	<i>RM</i>	<i>CC-D</i>	<i>CS</i>	<i>CO</i>	<i>O&LI</i>	<i>PD-R</i>	<i>PD-B</i>	<i>PD-TD</i> <i>PD-D</i>
Personal Services and Retail Sales (continued)	Health care laboratory					P	P	P	P		A	
	Mailing and packing service					SE	P	SE	P		A	A
	Personal services, general					P	P	SE		A	A	A
	Pharmacy					P	P	P			A	A
	Product repair and services					P	P	SE	P		A	A
	Retail sales					P	P	SE			A	A
	School of special instruction					SE	P	SE	P	A	A	A
	Other personal services and retail sales uses					P	P	SE			A	A
Vehicle Sales and Services	Vehicle sales (new)						SE		SE			
	Vehicle repair; transmission and muffler shops, sales of parts and tires						SE		SE			

Table of Principal Permitted and Allowed Uses

(See Also Table of Permitted and Allowed Accessory Uses and Table of Allowed Temporary Uses and Structures)

Notes:

- | | |
|--|---|
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|--|---|

		<i>Residential</i>				<i>Business</i>				<i>Planned Development</i>		
<i>Use Category</i>	<i>Use Type</i>	<i>R-15</i>	<i>R-10</i>	<i>RT-C</i>	<i>RM</i>	<i>CC-D</i>	<i>CS</i>	<i>CO</i>	<i>O&LI</i>	<i>PD-R</i>	<i>PD-B</i>	<i>PD-TD</i> <i>PD-D</i>
Vehicle Sales and Services (continued)	Recreational vehicle rental and sales						SE		SE			
	Vehicle fuel sales with or without convenience store						SE		SE			
Lodging Business	Conference center, hotel, motel, inn, boarding house, rooming house						SE		SE		A	A
Commercial Utilities	Commercial communication tower, freestanding	SE	SE	SE	SE	SE	SE	SE	SE	A	A	A
	Electrical substation						SE		SE		A	
	Telecommunication switching station						SE		SE		A	
	Utility-related maintenance and storage yards						SE		SE			

Table of Principal Permitted and Allowed Uses												
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		<i>Residential</i>				<i>Business</i>				<i>Planned Development</i>		
<i>Use Category</i>	<i>Use Type</i>	<i>R-15</i>	<i>R-10</i>	<i>RT C</i>	<i>RM</i>	<i>CC D</i>	<i>CS</i>	<i>CO</i>	<i>O& LI</i>	<i>PD-R</i>	<i>PD-B</i>	<i>PD-TD PD-D</i>
Industrial Service	Dry cleaning or laundry plants						SE		SE			
	Scientific research and scientific development								P		A	
	All other industrial service uses								SE		A	
Light Manufacturing	Uses involving freight delivery, storage, mass production and transporting of finished products								SE			
	All other light manufacturing uses								P		A	
Self-Service Storage	Self-service storage uses								SE		A	
Transportation and Parking	Bus maintenance facility for public bus service								SE			
	Parking facility, commercial or public, permanent					SE	SE	SE	SE		A	A

Table of Principal Permitted and Allowed Uses												
(See Also Table of Permitted and Allowed Accessory Uses and Table of Allowed Temporary Uses and Structures)												
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		<i>Residential</i>				<i>Business</i>				<i>Planned Development</i>		
<i>Use Category</i>	<i>Use Type</i>	<i>R-15</i>	<i>R-10</i>	<i>RT C</i>	<i>RM</i>	<i>CC D</i>	<i>CS</i>	<i>CO</i>	<i>O&LI</i>	<i>PD-R</i>	<i>PD-B</i>	<i>PD-TD PD-D</i>
Warehousing	Electronic warehousing						SE		P		A	
	Warehouse (storage)								SE			
Wholesale Sales	Contractor's materials								SE		A	
	Wholesale establishment								SE		A	

* See also section 78-701, Definitions. Drive-in (not drive-through) window service is a term used to describe an establishment designed to be operated to serve a patron while seated in an automobile parked in an off-street parking space.

6. Section 78-401.2, Residential use category, Zoning Ordinance (2007), Herndon Town Code (2000), as amended, is amended and re-ordained as follows:

Sec. 78-401.2. Residential use category.

(d) *Specific standards for residential uses.*

(1) *Single-family detached dwellings:*

- a. All lots shall have frontage on a public street except in Planned Development-Downtown and Planned Development Traditional Downtown, where private streets may be used to add flexibility for site design in urban conditions.

7. Section 78-402.3, Permitted and allowed accessory uses and structures, Zoning Ordinance (2007), Herndon Town Code (2000), as amended, is amended and re-ordained as follows:

Sec. 78-402.3. Permitted and allowed accessory uses and structures.

(c) *Table of permitted and allowed accessory uses and structures.*

TABLE 402.3: TABLE OF PERMITTED AND ALLOWED ACCESSORY USES AND STRUCTURES

(See also section 78-400(b), Table of Principal Permitted and Allowed Uses, and Table 78-403.2, Allowed Temporary Uses and Structures; See also use specific standards in section 78-402.7)

	<i>Residential</i>				<i>Business</i>				<i>Planned Development</i>		
<i>Accessory Use</i>	<i>R-15</i>	<i>R-10</i>	<i>RTC</i>	<i>RM</i>	<i>CCD</i>	<i>CS</i>	<i>CO</i>	<i>O&LI</i>	<i>PD-R</i>	<i>PD-B</i>	<i>PD-TD</i> <i>PD-D</i>
Accessory dwelling unit	SE	SE	SE						A		
Accessory food preparation area	P	P	P								
Antennae of all kinds (except commercial communication towers, freestanding)	P	P	P	P	P	P	P	P	A	A	A
Bed and breakfast establishment	SE	SE									SE
Car/vehicle rental						SE		SE		SE	SE
Car/vehicle used sales								SE			
Car/vehicle wash accessory to other automotive uses						P		SE			
Caretaker or security guard's residence						P		P			
Commercial communication towers, freestanding	SE	SE	SE	SE	SE	SE	SE	SE	A	A	A
Daycare center, childcare center or pre-school					SE	SE	SE	SE	A	A	A
Drive-through service						SE		SE		A	
Financial institutions, accessory					P	P	P	P		A	A
Home-based business, including daycare or childcare	P	P	P	P					A		A
Keeping of livestock											
Minor utilities	P	P	P	P	P	P	P	P	A	A	A
Outdoor restaurant seating					P	P	P	P	A	A	A

	<i>Residential</i>				<i>Business</i>				<i>Planned Development</i>		
	R-15	R-10	RTC	RM	CCD	CS	CO	O&LI	PD-R	PD-B	PD-TD PD-D
Outdoor storage as an accessory use						P		P			
Outdoor display of products for sale					P	P					A
Parapets, penthouses for equipment and other roof structures				P	P	P	P	P		A	A
Recreational vehicle parking and storage of individually-owned vehicles	P	P	P	P					A		
School uses in conjunction with, and on the same site as, Religious Institution	SE	SE			SE			SE	A	A	A
Social service and similar community service uses	SE	SE	SE	SE	SE	SE					
Features such as fences, walls, retaining walls, gate houses, trash enclosures, refuse containers, screening enclosures, storage sheds, and swimming pools	P	P	P	P	P	P	P	P	A	A	A

8. Section 78-402.7, Standards for specific accessory uses and structures, Zoning Ordinance (2007), Herndon Town Code (2000), as amended, is amended and re-ordained as follows:

Sec. 78-402.7. Standards for specific accessory uses and structures.

(n) *Outdoor seating area accessory to an enclosed restaurant with indoor seating.* Outdoor seating areas accessory to an established enclosed restaurant shall comply with the following standards:

- (1) The outdoor seating shall be located on a private sidewalk or plaza area in such a manner so as to permit unobstructed pedestrian passage. Such passage shall meet all applicable code requirements as well as other standards established by the zoning administrator for safe and convenient pedestrian movement
- (2) The outdoor seating shall not be located within a required parking area.

- (3) The outdoor seating shall be confined to an area delineated to scale on a plan approved by the zoning administrator or approved at the time of zoning map amendment or site plan.
- (4) A physical barrier, such as a wall, fence, planters or bollards may be installed to define the outdoor eating area.
- (5) Trash and debris shall be disposed of on the site of the business establishment and public sidewalk trash containers shall not be used for disposing of waste or recycling generated by customers.
- (6) Outdoor eating facilities (tables and chairs) shall not be located within 70 feet of a property zoned R-15, R-10, RTC or RM.
- (7) Establishments with outdoor eating facilities located within 100 feet of property zoned or used for residential uses, including mixed-use development incorporating residential uses, shall limit their hours of outdoor operation to between 7:00 a.m. and 2:00 a.m.
- (8) Outdoor eating facilities located further than 100 feet of property zoned or used for residential purposes shall limit the hours of outdoor dining to between 7:00 a.m. and 2:00 a.m.
- (9) Exterior umbrellas or heaters associated with an outdoor eating establishment shall be weighted and shall meet all applicable codes.
- (10) Parking shall be required for exterior seating in excess of 32 seats. Parking for this excess shall be calculated at the parking ratio required for interior restaurant seating.
- (11) No exterior kitchen or bar service equipment shall be permitted unless permitted in association and for the duration of a permitted temporary use permit.

(q) *Outdoor display of products for sale.* An area of designated size used for the display of seasonal merchandise or tangible property normally sold within the contiguous business or organization is permitted in the central commercial district, the planned development-downtown district, the planned development-traditional downtown district, and the commercial service district as long as the display area, including any structures and products:

9. Section 78-403.7, Specific standards for certain temporary uses and structures, Zoning Ordinance (2007), Herndon Town Code (2000), as amended, is amended and re-ordained as follows:

Sec. 78-403.7. Specific standards for certain temporary uses and structures.

In addition to the general standards for all temporary uses described in section 78-403.6, certain temporary uses shall be required to meet the following requirements.

(8) *Temporary family health care structures.*

- (a) Temporary family health care structures (i) for use by a caregiver in providing care for a mentally or physically impaired person and (ii) on property owned or occupied by the caregiver as one's residence is a permitted accessory use as the primary structure in any single-family residential zoning district on lots zoned and used for single-family detached dwellings (R-15, R-10, PD-R [as appropriate], PD-TD and PD-D [as appropriate]). Such structures shall not require a special exception permit or be subjected to any other local requirements beyond those imposed upon other authorized accessory structures, except as otherwise provided in this subsection (8). Such structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area ratio limitations that may apply to the primary structure. Only one temporary family health care structure shall be allowed on a lot or parcel of land.

10. Section 78-500.3, Minimum Off-street Parking Standards, Zoning Ordinance (2007), Herndon Town Code (2000), as amended, is amended and re-ordained as follows:

Sec. 78-500.3. Minimum Off-street Parking Standards.

(h) *Public shared parking.*

- (1) The provisions of this section apply to land designated planned development downtown (PD-D), planned development traditional downtown (PD-TD) and land zoned central commercial district (CC) in sectors 1 and 2 of the Herndon Downtown, as described in the Herndon 2030 Comprehensive Plan, adopted August 12, 2008 as amended, where the development applicant has voluntarily respectively proffered or chosen participation in the public shared parking program. In the absence of such a proffer or choice, the other parking requirements set out in this section apply to the development.

- (3) In lieu of providing parking spaces to fulfill the off-street parking standards of this Section for the planned development-downtown (PD-D) district, planned development-traditional downtown (PD-TD) district or central commercial (CC) district for land in sectors 1 and 2, a development applicant or owner may respectively proffer or elect to

pay to the town 60 percent of the per space capital cost, and 50 percent of the per space yearly operation, maintenance and administration cost. Such capital and operations costs shall be determined and set by the Town Council based on an annual review of parking construction costs for projects of comparable scale in the Washington Metropolitan Area and/or the state of Virginia. Any such proffer or election may be made as an element of a development plan for a planned development-downtown (PD-D) district, planned development-traditional downtown (PD-TD) district or as an optional element to fulfill parking requirements in the central commercial district (CC).

- (5) The following standards shall apply to public shared parking.

- f. Except as set out in this section, the other provisions of this section (78-500, off-street parking and loading) shall apply to development in the planned development-downtown (PD-D), planned development-traditional downtown (PD-TD) or central commercial district (CC).

11. Section 78-503.4, Buffer strip required inside entire perimeter of parcels, Zoning Ordinance (2007), Herndon Town Code (2000), as amended, is amended and re-ordained as follows:

Sec. 78-503.4. Buffer strip required inside entire perimeter of parcels.

(a) *Buffer classifications for property boundaries that are not adjacent to public rights-of-way.*

- (1) Every parcel of land created upon a subdivision of land other than those parcels to be developed for single-family detached or duplex dwelling units, and every parcel of land for which a site plan is required under the provisions of this chapter, except as provided for in the central commercial planned development-mixed use, and planned development-traditional downtown districts (CC-central commercial, PD-D-Planned Development Downtown and PD-TD-Planned Development Traditional Downtown), shall contain an area immediately inside the entire perimeter of the parcel, referred to as the buffer strip. The width of the buffer strip and the landscape materials contained within it are prescribed in Table 78-503, Landscape Buffer Classifications. In developments where land is subdivided for lots other than those parcels to be developed for single-family detached or duplex dwelling units, the required buffer shall be exclusive of land contained within lots for individual dwelling units.

- (b) Buffer requirements for property boundaries that are adjacent to public rights-of-way.

(3) *Other requirements.*

b. For buffer requirements In the CC, PD-D and PD-TD districts, see section 78-511, Downtown.

12. Section 78-503.6, Landscaping for site areas not otherwise contained in perimeter buffers and vehicular use areas, Zoning Ordinance (2007), Herndon Town Code (2000), as amended, is amended and re-ordained as follows:

Sec. 78-503.6. Landscaping for site areas not otherwise contained in perimeter buffers and vehicular use areas.

(a) Standards.

(1) *Amount of landscaping.* Landscaping for site areas not otherwise contained in perimeter buffers and vehicular use areas shall be required for all development, except as otherwise stated in section 78-503.6(a)(3) below, and shall be supplied in the amounts identified in Table 78-503.6, required site landscape plantings, and shall meet the minimum size standards in section 78-503.9, other landscape standards.

(3) *Certain Exemptions for downtown.* Properties zoned PD-D and PD-TD shall be exempt from Section 78-503.6 except for the following requirements:

a. Townhouse parcels located within the PD-D and PD-TD shall provide:

1. A landscape planting area with a minimum width of 4 feet located between the façade of the townhouse and the public streetscape running the length of the front façade except where interrupted to accommodate entrances and exits. The planting area shall contain at least one shrub every 6 linear feet.
2. One deciduous tree and one shrub located to the rear of the property, except in cases where the rear of the structure adjoins a parking structure.

b. Single-family detached parcels located within the PD-D and PD-TD shall provide:

1. A landscape planting area with a minimum width of 5 feet located adjacent to the front façade and in a multiple frontage condition, along all facades facing a public or private street, except where interrupted to accommodate entrances and exits. The planting area shall contain at least one shrub every 6 linear feet.

2. One deciduous tree located within the functional rear yard of the property and one deciduous tree located along all sides of the property facing a public or private street. At least one tree shall be a canopy tree.

c. Non-residential development and mixed-use residential development located in the PD-D and PD-TD shall provide:

1. Commercial grade planting containers designed to complement (as determined by the Heritage Preservation Review Board using recognized standards) the architecture of the building, or planting beds, planted and maintained with evergreen shrubs or live plants affording seasonal color. Such containers or planting beds shall not extend into the required 12-foot public streetscape.
2. Planting beds or containers shall flank each public entrance. Additional planters or beds may be located along the foundation of the structure.
3. Minimum container and planting bed dimensions shall be 20 inches by 20 inches.

d. Exposed parking deck frontage located in the PD-D and PD-TD shall provide:

1. A landscape planting area with a minimum width of 6 feet located adjacent to any façade not wrapped by usable ground floor retail, office or lobby space and fronting a public street or pedestrian plaza area.
2. Such landscape planting area shall run the length of the exposure except where interrupted to accommodate entrances or exits.
3. The plant material shall be selected based upon the desired screening effect, to be determined by the zoning administrator using recognized standards at the time of zoning map amendment or in the absence of a zoning map amendment, at the time of site plan review.

13. Section 78-508.6, Signs in the central commercial and planned development-Downtown zoning districts, Zoning Ordinance (2007), Herndon Town Code (2000), as amended, is amended and re-ordained as follows:

Sec. 78-508.6. Signs in the central commercial, planned development – Downtown and Planned Development-Traditional Downtown zoning districts.

The standards of this section apply for uses contained in Sectors 1 through 6 of the Herndon Downtown as identified in the Herndon 2030 Comprehensive Plan (adopted August 12, 2008), as may be amended from time to time.

- (1) *Freestanding.*

- b. One sandwich board sign may be approved in writing by the zoning administrator, in accordance with section 78-202.7(g), or for each building in the CC, PD-D, or PD-TD district for which a freestanding sign is not permitted provided that all of the following criteria are met.

- (2) *Wall and window signs.* Flashing Open/Closed signs shall not be permitted. All other neon signs shall be permitted in accordance with the standards set forth in the Downtown Pattern Book. Wall mounted flags to denote that a business is open shall be allowed at the rate of one flag per street frontage of the business. Flags shall be no larger than three by five feet or 15 square feet.

14. Section 78-508.7, Master sign plan, Zoning Ordinance (2007), Herndon Town Code (2000), as amended, is amended and re-ordained as follows:

Sec. 78-508.7. Master sign plan.

(a) Within any business district (CC, CS, CO, O&LI, PD-W, PD-B, PD-D, PD-TD) any non-residential development in which two or more individual establishments are located may request the approval of a master sign plan for window and wall signs pursuant to section 78-202.7(d), sign permit and master sign permit.

15. Section 78-511, Downtown, Zoning Ordinance (2007), Herndon Town Code (2000), as amended, is amended and re-ordained as follows:

Sec. 78-511. Downtown.

These requirements shall apply to any development in the Downtown as described in section 78-302.3(c).

- (3) *Setback.*

- c. Landscaping and lighting structures are permitted in the setback area, if it is determined by the zoning administrator they are safe, do not impede pedestrian access and convenience, and are consistent with the Herndon Downtown Pattern Book adopted January 29, 2013, as amended, incorporated by reference. Off-street parking and loading areas are prohibited in the setback area.

16. Section 78-512, Downtown transition areas, Zoning Ordinance (2007), Herndon Town Code (2000), as amended, is amended and re-ordained as follows:

Sec. 78-512. Downtown transition areas.

(a) *Applicability.* The standards in this section shall apply to all uses (except as noted) located within 1,250 feet of existing and future lands of the Downtown Master Plan area of the comprehensive plan and land zoned central commercial district (CC), planned development-Downtown district (PD-D) and planned development traditional downtown district (PD-TD). These standards are designed to ensure that infill development or redevelopment in existing developed areas of the town is consistent with the established character and scale of those areas. Use standards in Article IV may also apply. Where any conflict or inconsistency may exist between these standards and other provisions in this chapter, the more restrictive provisions shall apply.

(b) *General standards.*

(1) *Off-street surface parking for nonresidential uses.* Off-street surface parking is located to the side or rear of buildings.

(2) Building setbacks for all uses. The front and side yard setbacks are within 25 percent of the average of the existing setbacks of residential structures found along the block face, except that more shallow front setbacks may be approved for commercial corner locations or other commercial lots if it is demonstrated that the configuration provides a better transition to adjacent residential uses.

(3) Building footprint for all uses. The building footprint area of any single structure does not exceed 150 percent of the average size of the residential structures found along the same block face. This standard does not apply to public buildings.

17. This ordinance shall be effective on and after the date of its adoption.

This is certified to be a true and accurate copy of Ordinance 13-O-01 adopted at a legally convened meeting of the Town Council of the Town of Herndon on January 29, 2013.

Margie Tacci

Margie C. Tacci, Deputy Town Clerk II

Additionally, the following subtitle was added to the Pattern Book, "A Guide for the Downtown Development."